

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HUSSAIN SALEM MOHAMMED ALMERFEDI,)

Petitioner,)

v.)

BARACK H. OBAMA, et al.,)

Respondents.)

Civil Action No. 05-1645 (PLF)

ORDER

Before the Court is the government's motion to admit hearsay evidence with a presumption of accuracy and authenticity. The Court concludes that the motion should be granted with respect to the admission of hearsay evidence. See Al-Biheni v. Obama, 590 F.3d 866, 879 (D.C. Cir. 2010). The Court also concludes that any evidence presented by the government that has been created and maintained in the ordinary course of business should be afforded a rebuttable presumption of authenticity. See, e.g., Ahmed v. Obama, 613 F. Supp. 2d 51, 54-55 (D.D.C. 2009). The Court rejects, however, the government's argument that its evidence should be afforded a presumption of accuracy for the reasons articulated by Judge Kessler in Ahmed v. Obama, 613 F. Supp. at 54-55, Judge Kollar-Kotelly in Al Mutairi v. United States, 644 F. Supp. 2d 78, 83-84 (D.D.C. 2009), and Judge Kennedy in Abdah v. Obama, Civil Action No. 04-1254 (Aug. 29, 2009).

As to accuracy, the Court will consider the accuracy, reliability, and credibility of all of the evidence presented on a case-by-case basis in the context of the evidence as a whole

and the arguments presented by counsel during the merits hearing beginning on March 3, 2010. The proponent of any piece of evidence must establish its accuracy, reliability, and credibility. Accordingly, it is hereby

ORDERED that the government's motion to admit hearsay evidence with a presumption of accuracy and authenticity [207] is GRANTED as to the admission of hearsay evidence and the presumption of authenticity and DENIED as to the presumption of accuracy.

SO ORDERED.

DATE: March 1, 2010

/s/ _____
PAUL L. FRIEDMAN
United States District Judge